

REMARKS

In the Final Office Action, the Examiner noted that claims 1-10, 13, and 31-32 are pending in the application, and that claims 1-10, 13, and 31-32 are rejected. By this response, claim 31 is amended. Claims 1-10, 13, and 32 continue unamended. In view of the above amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. § 103. Thus, Applicants believe that all of these claims are now in condition for allowance.

I. OBJECTIONS

The Examiner objected to claim 31 due to informalities. In particular, the Examiner noted that the limitation "as the sum of a plurality of helper hotness ratings" appears to be erroneously stated twice in succession.

Applicants have amended claim 31 to correct the typographical error. As such, Applicants respectfully request that the objection be withdrawn.

II. AFFIDAVIT UNDER 37 C.F.R. §1.131

The Examiner has cited, as the basis for rejecting claims 1-10, 13, 31, and 32 (discussed below), United States patent 6,484,199, issued November 19, 2002 to Eyal (hereinafter referred to as the "Eyal '199 patent"). The Eyal '199 patent claims priority to a provisional application filed on January 24, 2000. The filing date of the provisional application is the earliest effective filing date of the Eyal '199 patent. Applicants submit that they conceived and reduced their invention to practice, as presently claimed, prior to the filing date of the provisional application to which the Eyal '199 patent claims priority. In support of this submission, Applicants enclose a declaration under 37 CFR 1.131, executed by all the available inventors, Katherine H. Guo, Markus A. Hofmann, and Sanjoy Paul, which declares a conception date for the invention claimed in the above-identified patent application to be on or before January 24, 2000, and that due diligence was exercised toward reducing the invention to practice. In view of this declaration, the Eyal '199 patent is not prior art to Applicants' invention.

As stated in MPEP 715.04, a declaration filed under rule 37 CFR 1.131 requires the signature of each of the joint inventors unless it is shown that an inventor or inventors were "otherwise unavailable". In that instance, the signature(s) of the remaining inventor(s) is/are sufficient. Inventors Tze Sing Eugene Ng and Hui Zhang were unavailable to execute the enclosed declaration. Both Mr. Ng and Mr. Zhang are not employed by the Assignee of the present application. The available inventors, Katherine H. Guo, Markus A. Hofmann, and Sanjoy Paul, have executed the enclosed declaration to fulfill the requirements of MPEP 715.04. As such, Applicants respectfully request that this declaration be entered and judged effective at swearing behind the Eyal '199 Patent.

III. REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 1-10, 13, 31, and 32 as being unpatentable over Eyal (United States patent 6,484,199, issued November 19, 2002) in view of Herz (United States patent 6,029,195, issued February 22, 2000). The rejection is respectfully traversed.

As discussed above, the Eyal '199 patent is not prior art to Applicants' invention. Applicants will now address the present rejection under 35 U.S.C. §103 with respect to the Herz patent. Herz teaches a system that constructs a profile for an object within an electronic medium. (See Herz, Abstract). In particular, Herz describes multicasting between a proxy server and a plurality of servers. (Herz, col. 45, lines 13-33). Herz, however, does not teach, suggest, or otherwise render obvious Applicants' invention as recited in claim 1. Namely, Herz does not teach or suggest calculating a server hotness rating for streaming multimedia objects hosted by a content server. In addition, Herz does not teach or suggest categorizing the streaming multimedia objects into a plurality of hotness categories based on the calculated hotness ratings. Specifically, Applicants' claim 1 positively recites:

"A method for distributing a streaming multimedia (SM) object in a network having a content server which hosts SM objects for distribution over said network through a plurality of helpful servers (HSs) to a plurality of clients, said method comprising:

calculating at said content server a server hotness rating for said SM

objects hosted thereon;

performing a categorization process, wherein each of said SM objects hosted by said content server are categorized into one of a plurality of server hotness categories based on each of said SM object's calculated server hotness rating; and

multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category." (Emphasis added).

Therefore, Applicants contend that claim 1 is patentable over Herz and, as such, fully satisfies the requirements of 35 U.S.C. §103.

Furthermore, independent claims 5, 9, and 13 recite features similar to the features recited in claim 1 emphasized above. For the same reasons discussed above, Applicants contend that claims 5, 9, and 13 are also patentable over Herz and fully satisfy the requirements of 35 U.S.C. §103. Finally, claims 2-4, 6-8, 10, and 31-32 depend, either directly or indirectly, from claims 1, 5, 9, and 13 and recite additional features therefor. Since Herz does not render obvious Applicants' invention as recited in claims 1, 5, 9, and 13, dependent claims 2-4, 6-8, 10, and 31-32 are also not obvious and are allowable.

CONCLUSION

Thus, Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. § 103. Consequently, Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring any adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Robert M. Brush, Esq. or Mr. Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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